

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR
* * *

OA No. 397/1995

Date of order: 15-5-1997

Gokul Chand Gupta, presently working as Sr. Section Supervisor (U/s), O/o the Accounts Officer (Revenue), General Manager (Telecom Distt.), Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications, New Delhi.
2. The Director General, Department of Telecommunications, New Delhi.
3. The General Manager, Department of Telecommunications, District Jaipur (Raj).

.. Respondents

Mr. Surendra Singh, counsel for the applicant
Mr. S.S.Hasan, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

O R D E R

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Gokul Chand Gupta has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to make him the payment of fixation arrears with interest @ 18% per annum from 16th September, 1992 till the date of actual payment.

2. The facts which are not largely in dispute, in brief, are that the applicant ~~who~~ is presently working as Senior Section Supervisor with the respondent department of Telecommunications. He approached the appropriate forum ^{by filing a suit 2} which was disposed of after the constitution of the Central Administrative Tribunal as TA No. 1766/86 vide

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9

order dated 16.9.1992 (Ann.A2). In the said proceedings a direction to the following effect was given:-

"3. We accordingly direct that the benefit of DGPST instruction dated 3.4.81 may also be extended to the applicants in accordance with the rules as has been done in the case of other similarly situated employees. They will however be not entitled to any benefit prior to 3rd July 1981 as a result of refutation of seniority. The TAs stand disposed with these directions. The parties to bear their own costs."

Thereafter the Union of India and Ors. filed a Review Petition No. 44/93, which was disposed of by order dated 13.9.93 (Ann.A3) by ordering:-

" Heard the learned counsel for the parties. It is an admitted position that Shri Gokul Chand Gupta, had been offered promotion in 1977 as well as in 1979 and he had declined to accept the promotion so given and accepted the promotion from 11.7.80. So the question of giving the notional seniority in the promotion cadre from 11.1.80 does not arise as the respondent Shri Gokul Chand Gupta, had declined to accept the promotion so given. He will be entitled to notional fixation in accordance with the instructions contained in DGPST's letter dated 3.4.81 only from 11.7.80. The order dated 16.9.92 may be accordingly amended. The Review Petition as well as the application for condonation of delay is disposed of accordingly."

3. It is the grievance of the applicant that inspite of the aforesaid directions given by the Tribunal and also the consequential order of fixation dated 16-9-94 (Ann.A4), the respondents have ~~never~~^{not} paid to him the fixation arrears, hence he has been constrained to file this application to claim the aforesaid relief.

4. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed by the applicant. A preliminary objection has been raised on behalf of the respondents that the applicant has claimed a limited relief to pay him fixation arrears with interest @ 18% per annum from 16th Sept. 92 whereas the applicant has not explained any justification for this claim more so after the order of the Tribunal in the Review Petition dated 13.9.93. The respondents have,

Dr

10

however, not disputed the contents of Ann.A4. The applicant has not come with clean hands before the Tribunal and suppressed ~~with~~ the developments which has ~~placed~~ ^{not} place meanwhile as stated in para B of the preliminary objections. The delay in payment has also occurred because of pendency of a criminal case against the applicant and his suspension ^{in the} depending upon departmental proceedings.

5. I heard the learned counsel for the parties and have examined the record in great detail.

6. It is undisputed that the respondents have issued an order refixing the pay of the applicant dated 16.9.94 (Ann.A4). May be that the respondent department is proceeding against the applicant in subsequent disciplinary proceedings initiated against the applicant but it does not liberate the applicant to receive the arrears which has been ordered to be paid by the respondents vide order dated 16.9.93 (Ann.A2) and as modified by order dated 13.9.93 (Ann.A3). The learned counsel for the applicant has not been able to satisfy as to how the applicant is entitled to claim the interest at the rate of 18% per annum from 16th September, 1992 when according to the pleadings of the applicant himself the order dated 16.9.92 stood modified only on 13.9.93. Hence at the most the applicant is entitled to get interest on his arrears after the refixation w.e.f. 13.9.93 only till the date of actual payment. On the point of rate of interest, it is considered appropriate that the respondents shall pay to the applicant an interest @ 12% per annum w.e.f. 13.9.93 till the date of actual payment to the applicant.

7. Consequently, while allowing the OA partly, the respondents are directed to make payment of the fixation

(11)

arrears to the applicant as detailed in Ann.A4

dated 16.9.1994 with an interest @ 12% per annum

on the amount due ^{- u. 2.8.13.993 -} till the date of actual payment.

The respondents should comply with these directions within a period of 3 months from the date of receipt of a copy of this order. The OA stands disposed of accordingly with no order as to costs.



(Ratan Prakash)

Judicial Member